CONFERENCE ON DISARMAMENT

CD/1562
21 January 1999

Original: ENGLISH

Agenda for the 1999 session

(Adopted at the 809th plenary meeting on 21 January 1999)

Taking into account, inter alia, the relevant provisions of the Final Document of the First Special Session of the General Assembly devoted to disarmament, and pending the conclusion of its consultations on the review of its agenda, and without prejudice to their outcome, the Conference adopts the following agenda for its 1999 session:

1. Cessation of the nuclear arms race and nuclear disarmament.

2. Prevention of nuclear war, including all related matters.

3. Prevention of an arms race in outer space.

4. Effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons.

5. New types of weapons of mass destruction and new systems of such weapons: radiological weapons.

6. Comprehensive programme of disarmament.

7. Transparency in armaments.

8 Consideration and adoption of the annual report and any other report, as appropriate, to the General Assembly of the United Nations.

GE.99-60295

CONFERENCE ON DISARMAMENT

CD/1563
26 January 1999

Original: ENGLISH

EGYPT

Draft mandate for an ad hoc committee on nuclear disarmament

The Conference decides to establish an ad hoc committee under agenda item 1 on nuclear disarmament to commence negotiations on a phased programme of nuclear disarmament with the objective of the complete elimination of nuclear weapons.

In discharging its function, the ad hoc committee will take into account the proposal for a programme of action for the elimination of nuclear weapons submitted by 28 members of the Conference belonging to the Group of 21 (CD/1419) as well as any other existing proposals and future initiatives in this regard.

GE.99-60122

CONFERENCE ON DISARMAMENT

CD/1564
28 January 1999

Original: ENGLISH

SOUTH AFRICA

Interpretation of the Rules of Procedure
of the Conference on Disarmament

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490/29/6/15
RO19/99

DIRECTORATE: DNPD
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1. Your request, dated 11/1/1999, for legal advice on the Rules of Procedure of the Conference of Disarmament and the Decision on the Improved and Effective Functioning of the Conference on Disarmament, refers.

2. The Law Advisers were requested to advise on the correct interpretation of para. 5 (d) on the Conference on Disarmament's "Decision on the Improved and Effective Functioning of the Conference on Disarmament" (CD/1036 dated 21 August 1990), which reads as follows:

> 5. On the question of time-limits for the establishment of subsidiary bodies and their mandates: (d) that in the case of an absence of consensus on the establishment of any particular subsidiary body or its mandate, the incumbent President shall in the subsequent two weeks try to identify a Special Coordinator to assist in carrying out informal consultations with a view to reaching consensus.

3. In this regard we comment as follows:

3.1 Rules of Interpretation

According to the rules of interpretation, the intention of the drafters is paramount in interpreting a text. In general it can be accepted that the wording of a text will reflect the intentions of the drafters. Should the wording of a text not contain a clear indication as to the intention of the drafters or be ambiguous or lead to a result which is obscure or unreasonable, the interpreters may resort to the *travaux preparatoires* or preparatory work as a tool of interpretation. We are of the opinion that the wording of the text under discussion is sufficiently clear in itself and that there is no need to have to consider any preparatory material.

3.2 The functions and duties of the President of the Conference on Disarmament in the context of paragraph 5(d)

Para. 5 (d) clearly provides that decisions on the establishment of a subsidiary body should be taken by way of consensus. This paragraph essentially indicates how the President of the Conference on Disarmament must

act in cases where there is no consensus on the establishment of such a body in order to reach consensus. In such cases the President does not have a discretion whether or not to appoint a Special Coordinator. The President is (after the first two weeks of the annual session when the principal debate on the establishment of subsidiary bodies and their mandates is to take place, in accordance with para. 5(c) of the Conference on Disarmament Decision CD/1036) obliged to (shall) try to identify such a person within two weeks to assist in the process of reaching consensus.

3.3 The meaning of the phrase 'try to identify'

The phrase 'try to identify' as it is used in para. (d) is accepted as having its normal meaning: The President of the Conference on Disarmament is, in the situation envisaged by para. 5(d), obliged to (shall) take all reasonable steps to identify a person to fulfil the Special Coordinator task. This must be done in the two-week period following the first two weeks of the annual session (when the principal debate on the establishment of subsidiary bodies and their mandates is to take place). Where no person is available or willing and able to assist the President in reaching consensus, the President alone is responsible to conduct consultations with a view to reaching consensus, without the assistance of the Special Coordinator. If the President can identify a person, the President would appoint that person to fulfil the task outlined in para. 5(d).

3.4 Is consensus required in the Conference on Disarmament for the appointment of a Special Coordinator?

As stated above, para. 5(d)provides for situations where a consensus does not exist on the establishment of a subsidiary body or its mandate. Para. 5(d) does not in any part of its text indicate that a consensus in the Conference on Disarmament would be required for the appointment of a Special Coordinator in terms of its provisions.

The appointment of the said Special Coordinator is done by way of unilateral action of the President. The text of para. 5(d) does not stipulate or imply in any way that the President has to clear his decision to appoint a Special Coordinator with anybody, nor does he have to seek consensus on such appointment. It is reasonable to accept that if consensus in this regard was intended by the drafters, the text would have contained a clear indication in this regard. This conclusion is endorsed by the fact that any decision on the establishment of a subsidiary body must, even after a Special Coordinator is appointed, be taken by way of consensus. Any interpretation to the contrary would be in clear conflict with the text.

A suggestion that consensus on the appointment is required would have the potential of creating a situation whereby a member of the Conference on Disarmament who had prevented a consensus on the original proposal for the establishment of any particular subsidiary body or its mandate would be in a position to again prevent a consensus on the appointment of the Special Coordinator. Thereby the clear intention of the drafters, who were establishing a mechanism to assist in reaching a consensus and not a mechanism to continue the original disagreement, would be frustrated.

3.5 Duration of the appointment of a Special Coordinator

Para. 5(d) provides no indication of any artificial restriction or limitation on the duration of the term of office of a Special Coordinator appointed in terms of its provisions. The duration of the term of office of a Special Coordinator appointed in terms of par 5(d) would be determined by the eventual outcome of the informal consultations which are to be conducted by the Special Coordinator.

PRETORIA
PRINCIPAL STATE LAW ADVISER 21 JANUARY 1999

CONFERENCE ON DISARMAMENT

CD/1565
2 February 1999

Original: ENGLISH

BELGIUM, GERMANY, ITALY, NETHERLANDS, NORWAY

Proposal on nuclear disarmament

The Conference on Disarmament decides to establish an ad hoc working group to study ways and means of establishing an exchange of information and views within the Conference on endeavours towards nuclear disarmament.

GE.99-60516

CONFERENCE ON DISARMAMENT

CD/1566
2 February 1999

Original: ENGLISH

Proposal by the President
on the programme of work for the 1999 session of the CD

The Conference on Disarmament takes the following decisions:

1. To re-establish, for the duration of its 1999 session, the Ad hoc Committee under agenda item 4 entitled "Effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons", to negotiate with a view to reaching agreement on effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons. These arrangements could take the form of an internationally legally binding instrument.

The Ad Hoc Committee shall take into consideration all relevant views and proposals present and future and also address questions related to its mandate.

The Ad Hoc Committee will report to the Conference on the progress of its work before the conclusion of the 1999 session.

2. To re-establish, for the duration of its 1999 session, the Ad hoc Committee under item 1 of the agenda entitled "Cessation of the nuclear arms race and nuclear disarmament" to negotiate, on the basis of the report of the Special Coordinator (CD/1299) and the mandate contained therein, a non-discriminatory, multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices.

The Ad Hoc Committee shall present a report to the Conference on the progress of its work before the conclusion of the 1999 session.

3. That the Presidency, taking into account the statement (CD/1500) made by the President of the Conference at the 791st plenary meeting on 26 March 1998, and the statement (CD/1548) made by the President at the 802nd plenary meeting on 11 August 1998, shall continue to pursue intensive consultations and to seek the views of its Members on appropriate methods and approaches for dealing with agenda item 1, entitled "Cessation of the nuclear arms race and nuclear disarmament", taking into consideration all proposals and views in this respect, and present early and regular reports on the outcome of these consultations, including at the end of each Presidency.

4. To re-appoint a Special Coordinator under agenda item 3 entitled "Prevention of an arms race in outer space" to seek the views of its Members on the most appropriate way to deal with the questions related to this item.

5. To re-appoint a Special Coordinator under agenda item 6 entitled "Comprehensive programme of disarmament" to seek the views of its Members on the most appropriate way to deal with the questions related to anti-personnel landmines taking into account, inter alia, developments outside the Conference.

6. To re-appoint a Special Coordinator under agenda item 7 entitled "Transparency in armaments" to seek the views of its Members on the most appropriate way to deal with the questions related to this item.

7. In implementing these decisions, the Special Coordinators shall take into consideration all relevant views and proposals, present and future, and present early and regular reports on the outcome of their consultations throughout the session.

8. The taking of these decisions contained in paragraphs 3, 4, 5 and 6 does not prejudge the positions of delegations on, or the eventual establishment of, further subsidiary bodies on the issues identified, but reflects agreement to advance the Conference's work with a view to reaching consensus. This decision is also taken without prejudice to the rights of Members of the Conference to move forward with positions and proposals already made or to be put forward in the future.

9. The Conference also decides to re-appoint Special Coordinators on the Review of its Agenda, the Expansion of its Membership and its Improved and Effective Functioning. These Special Coordinators, in discharging their duties and functions, will take into account all proposals and views, as well as future initiatives. The Conference requests these Special Coordinators to report to it before the conclusion of its 1999 session.

CONFERENCE ON DISARMAMENT

CD/1567
2 February 1999

Original: ENGLISH

Proposal by the President
on the Expansion of the Membership of the Conference on Disarmament

The Conference on Disarmament:

Recognizing the importance attached to the question of expansion of its membership,

Confirming the necessity to review its membership at regular intervals, as contained in Rule 2 of its Rules of Procedure,

And without prejudging the consideration to be given to past, present and future applications for membership to the Conference,

Decides, as a further step within this approach, to admit Ecuador, Ireland, Kazakhstan, Malaysia and Tunisia as its members as of 4 February 1999.

GE.99-60551

CONFERENCE ON DISARMAMENT

CD/1568
4 February 1999

Original: ENGLISH

CANADA

Proposal concerning CD action on nuclear disarmament

Canada renews its proposal that:

- the CD establish an ad hoc committee for the substantive discussion of nuclear disarmament issues with a view to identifying if and when one or more such issues might be negotiated multilaterally.

BACKGROUND

- Nuclear disarmament issues continue to be a priority preoccupation of the global community.

- This was recognized by the CD in the statement made by its President on March 26, 1998, in which agenda item 1 entitled "Cessation of the nuclear arms race and nuclear disarmament" was emphasized as "an extremely high priority".

- The nuclear-weapon States have a particular responsibility in this regard and have committed themselves to "the determined pursuit ... of systematic and progressive efforts to reduce nuclear weapons globally, with the ultimate goal of eliminating those weapons, ...".

- This does not however preclude the interests of other members of the international community in the achievement of that objective. There is a clear need for renewed momentum and progress.

- The CD, as the multilateral negotiating mechanism on disarmament issues, should be appropriately and substantively engaged on nuclear disarmament issues.

- Canada does not consider that the CD should be mandated to negotiate nuclear weapon reductions per se or specific operational issues concerning such weapons.

- The CD should establish a mechanism through which it can be more aware of issues and developments in the nuclear disarmament field, can express views on developments therein, and can identify and explore issues which could be negotiated at an appropriate point by a multilateral mechanism.

- The CD has negotiated one such instrument, i.e. the Comprehensive Nuclear Test Ban Treaty, in the recent past; it has initiated the process by which it can make a further contribution by the negotiation of a Fissile Material Cut-off Treaty.

- Canada urges early action by the CD in response to this proposal as well as to those by other CD members.

GE.99-60058